IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7808 OF 2006

Vishwasrao Krishnarao Shinde. .. Petitioner.

vs.

The Revenue Commissioner, Pune

& Ors. . .. Respondents.

Mr. H.S. Venegaonkar for petitioner.

Mr. S.K. Chinchalikar, A.G.P.

for Respondent Nos. 1 to 3.

CORAM : A.P. DESHPANDE, J.

DATE : 30th November, 2006.

P.C.

. Rule. Rule made returnable forthwith. Taken up for final hearing by consent of the parties.

2. The petitioner’s father was an ex-serviceman and being an ex-serviceman he was allotted a small plot of land for construction of a house. The said plot is comprised in J.C.O. Co-operative Housing Society. The allotment was made sometime in the year 1970 and the construction was supposed to be carried out within a stipulated period. The

petitioner's father has failed to do so and hence, the Collector passed an order of cancellation of allotment made in favour of the father of the petitioner as an ex-serviceman. The petitioner's father expired sometime in the year 1991 and the present applicant is the legal heir of the deceased. Aggrieved by the order passed by the District Collector cancelling the allotment for breach of the terms of the allotment, the petitioner preferred an appeal before the Commissioner. The Commissioner concurring with the view taken by the Collector has dismissed the appeal and the said orders came to be challenged by filing a revision before the State Minister (Revenue), State of Maharashtra under section 257 of the Land Revenue Code.

3. The learned counsel for the petitioner has submitted that the petitioner's mother-in-law expired on 4.6.2005 and as she had no son of her own, the petitioner being the son-in-law had to perform the last rituals of the mother-in-law. It is not in dispute that the revision was fixed for hearing before the concerned Minister on 14.6.2005 i.e. within 13 days of the demise of the mother-in-law of the petitioner. According to the learned counsel for the petitioner, the petitioner could not remain present at the time of hearing so also could not take appropriate steps in seeking adjournment on account of death of his

mother-in-law. The petitioner's mother-in-law expired at Bhor on 4.6.2005 which fact is certified by the Police Patil and the certificate is annexed at Exhibit-1 to the petition. The reason given by the petitioner for his absence at the time of hearing of the matter before the State Government on 14.6.2005 is a sufficient reason and hence the petitioner needs to be granted one more opportunity of being heard in the matter by the State Government.

4. As I have already held that the petitioner was prevented from appearing before the concerned Minister when the revision was taken up for hearing, I partly allow the instant writ petition. The impugned order dated 21.3.2006 passed by the State Minister (Revenue), State of Maharashtra in case No. Land 3502/MMS 341/Case No. 75/J. 5 is quashed and set aside and the matter is remanded back for a de novo enquiry and decision on the revision to the respondent no. 3. The 3rd respondent shall grant an opportunity of hearing to the petitioner and decide the revision in accordance with law.

5. Rule made absolute in the above terms.

(A.P. Deshpande, J.)